

1 ROBERT E. CAREY, JR., ESQ. (SBN 47556)  
2 CAREY & CAREY  
3 706 COWPER STREET  
4 P.O. BOX 1040  
5 PALO ALTO, CA 94302-1040  
6 650/328-5510  
7 650/853-3632 FAX

8 Attorneys for Defendant  
9 JOSE BONILLA

10

11

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN JOSE DIVISION

15 UNITED STATES OF AMERICA,

16 CASE NO. CR-07-00251 RMW

17 Plaintiff,

18 DECLARATION OF COUNSEL  
19 UNDERLYING THE STIPULATION  
20 FOR CONTINUANCE OF HEARING  
21 DATE

22 vs.

23 JOSE BONILLA,

24 Defendant.

25  
26 I, ROBERT E. CAREY, JR., declare:

27 1. I am an attorney licensed to practice law before this Court.  
28 2. I represent the Defendant JOSE BONILLA in this matter.  
29 3. On January 7, 2009, I filed a motion on behalf of JOSE BONILLA to  
30 withdraw the previously-entered pleas of guilty in this matter.

31 4. The Assistant U.S. Attorney will require some period of time in  
32 which to respond to that motion; that I have exchanged voice mails with  
33 Assistant U.S. Attorney THOMAS O'CONNELL, who has informed me that he has  
34 no objection to such a continuance, so that he may respond to the motion.

35 5. I have spoken with the probation officer, Ms. Aylin Raya, and she  
36 has informed me that she has no objection to the continuance.

37 6. I am requesting that the matter be set for February 2, 2009, at

1 9:00 am, for hearing on the motion to withdraw the plea, as well as a status  
2 conference. My rationale in that regard is as follows: if the Court denies the  
3 motion, the matter would ordinarily proceed to judgment and sentence.  
4 However, additional information has been submitted to the probation office  
5 since December 31, 2008. It is my understanding that the probation officer  
6 desires a new referral from the Court in order to place such information in the  
7 ultimate presentence report. Consequently, assuming that the motion is  
8 denied, at the status conference a new date for the imposition of judgment and  
9 sentence can be established which would allow the newly submitted material  
10 to be considered by the Court.

11 7. Assuming that the motion is granted, the matter can either be set  
12 for trial or, hopefully, a different disposition may be entered into by the  
13 Defendant JOSE BONILLA. In that regard, the hearing on February 2 would  
14 then either set the case for trial or, alternatively, set a new date for the  
15 imposition of judgment and sentence under a different plea disposition.

16 8. I have spoken with both Ms. Raya and Mr. O'CONNELL and I  
17 understand that they do not have any objection to the continuance of the date  
18 of January 12, 2009. Similarly, I believe that Mr. O'CONNELL does not have  
19 any objection to the setting of this matter for the withdrawal of the plea and a  
20 status conference on February 2, 2009, at 9:00 am.

21 I declare under the penalty of perjury under the laws of the State of  
22 California that the foregoing is true and correct, and that this declaration is  
23 made on January 8, 2009 at Palo Alto, California.

24

25

---

ROBERT E. CAREY, JR.

26

27

28